THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 8389 of 2007

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed challenging the order dated 15.12.2006 passed by the Central Administrative Tribunal, Hyderabad Bench in O.A. 717 of 2005 as illegal and arbitrary.

The respondent herein filed O.A. 717 of 2005 seeking a direction to the petitioners herein to pay the terminal/death benefits of one G. Satyam along with interest from 1983 and to pay the family pension along with arrears, stating that he is her husband. The Tribunal allowed the said O.A. with certain directions. Aggrieved, the petitioners filed this writ petition.

This writ petition was admitted and notice to the respondent was ordered on 24.4.2007. Though the respondent is served, there is no representation on behalf of the respondent. Heard Sri R.S. Murthy, learned Standing Counsel for Railways, and perused the record.

The Tribunal while allowing the O.A. proceeded on the assumption that the respondent herein is the wife of G. Satyam and further observed that no question of limitation arises in case of

pensionary benefits. But, there is no convincing proof to come to the conclusion that she is the wife of the said Satyam. More over, even if it is accepted that no limitation arises, the respondent kept quite for nearly 15 years without any just cause. It is to be further seen from the material available on record that Sri G. Satyam was appointed as a Points Man at Baikunth on 24.9.1967 and was sent for refresher course in 1981. When he was found mentally imbalanced and incapable of discharging the duties, the Divisional Medical Officer, Bhilai advised the Station Master, Baikunth vide Memo No. MD/35/322 dated 8.3.1983 that Sri G. Satyam be referred to Honorary Consultant (Psychiatry/GRC), but he refused to have medical advise and medical treatment. The Divisional Medical Officer issued another Memo No. MD/35/434 dated 30.3.1982 directing that G. Satyam be referred for medical examination and that he shall be accompanied by his wife, but the said Satyam never appeared for medical examination nor did his wife approach the petitioners herein for any help and assistance. In the absence of any application or intimation from G. Satyam, the petitioners treated his services as one of abandonment of service for all purposes and neither the wife of G. Satyam, particularly nor any other family member evinced any interest for almost 15 years.

It is further borne out from the material available on record that initially the respondent submitted representation on 10.7.1997 claiming family pension and compassionate appointment

stating that she is the wife of one G. Sitaram and the petitioners informed her through letter No. E/GE/SCTT/OPTG/97/MISC dated 5.12.1997 and subsequently on 30.12.1997 that there is no such person by name G. Sitaram on Railway Rolls and that there was one G. Satyam whose name was struck off the rolls as not traceable with effect from 1982. It is only then that the respondent vide letter dated 2.3.1998 changed her version stating that her husband was Sri G. Satyam. Therefore, we are of the considered view that the order passed by the Tribunal is legally unsustainable because the very status of the respondent as wife of Sri G. Satyam is doubtful. There is no documentary proof available to show that the respondent got married to G. Satyam. Before the Tribunal, the respondent herein submitted that she filed complaints before Thana Tilda and Thana Denkada. However, the petitioners contend that that the S.H.O. Tilda, Raipur District and S.H.O/Denkada vide letters dated 26.2.2007 and 2.3.2007 respectively have indicated that no FIR was lodged at Tilda and Denkada by the respondent in 1998 and there is no record to that effect. As the claim pertains to a 23 years old case, it is represented that the records are no longer available.

For the above reasons, we are of the considered view that in the absence of any convincing and acceptable material in support of the claim of the respondent – applicant, the Tribunal erred in passing the order dated 15.12.2006 and therefore the said order is

liable to be set aside.

In the result, the order passed by the Tribunal dated 15.12.2006 in O.A. No. 717 of 2005 is set aside and the writ petition is allowed. No costs.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 19-06-2007.

MVB.